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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,582	12/31/2001	Kelan C. Silvester	P13479	4019
7590	08/16/2006		EXAMINER	
JOHN P. WARD BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES,, CA 90025			JANVIER, JEAN D	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 08/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/039,582	SILVESTER, KELAN C.
	Examiner	Art Unit
	Jean Janvier	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 June 2006.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12, 18 and 19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5, 6-12 and 18-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 26, 2006 has been entered and a Non-Final Office Action follows.

Detailed Action

Specification

Claims Status

Claims 1-5, 8-12 and new claims 18-19 are currently pending in the Application and claims 6-7 and 13-17 are canceled.

Examiner's Comments

Throughout the claimed invention, the term "host" may be referred to a **computer system** or a **game server** or to a **first player** or **first user** or to an **inviter** who starts a game and who is joined by other users from his buddy list or other independent players.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5, 6-12 and 18-19 are rejected under 35 USC 102(e) as being anticipated by Kirmse, USP 6, 699, 125B2.

As per claims 1-5, 6-12 and 18-19, Kirmse discloses a game and messenger client-server system including a plurality of game clients, used by users or players, a game server (host computer), a plurality of messenger clients, and a messenger server, coupled to the game server or host computer, **configured to send an instant game invitation or notification to an invitee**, in the inviter's or game starter's buddy list, in the form of an instant messaging when the presence of the invitee is detected online upon logging in. The game server includes logic to operate a multiplayer's game using inputs from and outputs to an active game set of game clients, wherein game clients (or players) other than those in the active game set, currently being

played or a game in progress, can join an active game by supplying the game server (host computer) with a reference to the active game. Additionally, logic is included for coupling a game client, used by a user or an invitee, to a messenger client to allow the game client or an invitee to send the messenger client **data used to initiate joining a game** (the invitee sends input data to the game server to join a game in response to an invitation from the game server), whereby a message sent by the messenger client includes the data used to initiate joining a game. Also, logic is included for initiating a join of a game at an invitee client, using data received in a message sent, by the messenger server coupled to the game server, to the invitee or user in the game starter's or inviter's buddy list (See abstract; col. 1: 62 to col. 2: 25; col 2: 29 to col. 3: 19).

User computer 12 might refer to 12(1) of fig. 2 or 12(2) of fig. 3. Here, client 12(1) refers to an inviter client operated by an inviter (game starter), who invites a user operating invitee client 12(2), operated by an invitee, to join through messenger server 22(2) coupled to the game server (14). In a typical system, **there may be many inviters, many games and many invitees**. **Also, if allowed by a game, an invitee might be an invitee in one instance and later be an inviter.** As shown in FIG. 1, invitee client 12(2) is in a state prior to being invited and joining a game (An inviter or game starter starts a game with the game server or host computer, which then transfers host privileges to the game starter (now the game host) as the game server, via the messenger server, sends instant messages to online users or invitees in the inviter's or game starter's buddy list to join a game in progress-Col. 5: 45-53; col. 6: 1-19; figs. 4 and 6-7).

When messenger client 22(2) of fig. 3 receives a state message indicating that an inviter has joined a game, messenger client 22(2) changes the status of that inviter in buddy list 40 of fig. 3 and may add a message to message list 42. The status message can be construed as an

invitation, but it might just be construed as an indication or a notice to the buddies of the inviter that the inviter is playing a particular game, as well as an indication of how to join the game (col. 6: 49-63). **If the invitee accepts or opts to join the game (because he recognizes that other buddies from the buddy list are currently playing online or because the buddies are currently playing a particular game, which is of interest to the user or invitee),** invoker 44 of fig. 3 handles sending an invocation command to operating system services 46. In one embodiment, game programs are invoked using command lines and registry entries and the invocation parameters are sufficient to join the game client to the correct game at the correct server (**An invitee may choose to join a game in progress, started by a game starter or inviter, or to decline from participating in the identified game- fig. 4 and 6-7; col. 6: 49 to col. 7: 2).**

Referring now to FIG. 4, a method of invoking a game at an invitee client is depicted thereat. In step S1, the inviter client invokes a game client. **As explained above, the inviter might have been himself an invitee (and then the game server transfers host privileges to the inviter, who will be joined online by other users or invitees in his buddy list for the purpose of playing a particular game among a plurality of games).** At step S2, the inviter's game client connects to a game server to join or start a game. In response, the game server serves up an active game (S3) and provides (S4) the inviter with enough information, such as IP address and port number, so the inviter can play the game (the inviter starts a game with the game server or host-col. 7: 26-36). Subsequent to starting a game with the game server or host computer, the host computer or game server transfers, upon signing off, host privileges to the inviter or game starter (first game player) and the inviter messenger-client software or logic 22(1), coupled to the

inviter game computer or game client 12(1) of fig. 2, quickly sends a message to the messenger server 18 of fig. 1 (S6), which then forwards the message (invitation or notification) to all the online users (a group of selected users) on the inviter's buddy list (S7) to join the inviter in the playing of a **particular** game (that was in progress or started between the game server and the inviter or inviter game client before the game server signs off- col. 7: 37-45). When an invitee receives the message (S8) and the invitee decides to join the game referenced in the message (S9), the invitee's messenger client sends an invocation message to the operating system services of the invitee client with enough information to invoke the game client and point the game client to the game the inviter is playing (S10). The invitee thus joins a game (S11) and the game server serves that joined client as one of the players (S12) (col. 7: 46-53).

When a client ends a game or terminates a game client, the game client might also include code that executes just before the game client terminates. Such code might generate a message similar to an invocation message and cause the messenger client to send a message indicating the new state (e.g., "out of game") to the buddies, to inform all (players) that one of the game players is no longer actively in the game. Such a message is also useful for providing some indication, or reversal of a prior indication, at the invitee messenger client that there is no longer a game in which to be invited. One possible implementation is to change the icon presented by the invitee messenger client from the game icon next to the inviter's name to a regular messenger icon next to the name of the inviter (now just a messenger buddy-col. 7: 54-67).

Moreover, FIG. 7 depicts a method used by an invitee messenger client to display messages from invitees and invoke games. In S200, the user gets a state message from the

messenger server. **States of other inviter game clients or other game clients playing the game are displayed using a game specific icon (S201)**, where such states include "available," "invisible," "unavailable," "playing a game," etc. At S202, **the process determines if the user or invitee has selected the game-specific icon**. If not, the process moves back to S200, to retrieve a state message from the messenger server and update the states of other game clients. However, if the game-specific icon is selected, a game client of the invitee is invoked using the invocation data from the state message (S203) (col. 8: 30-44; col. 8: 45-67). Finally, in fig. 7, it is clearly depicted that if the user or invitee has not selected a game-specific icon, corresponding to a game in progress, then the system loops back and starts the process again where the user or invitee can join another game by choosing a related game-specific icon.

Furthermore, if the host (especially if the host is a computer) can invite a player to play a game, with the host (human or machine), then it is herein understood that the host has the means or the latitude to accept the player (set up the player) when the player decides to join. In short, Kirmse discloses a system wherein a Host (game starter or first user) is enabled to send to or accept from invited (registered) users or members in the (game starter) buddy list an invitation to join a game in progress. Needless to say, here, that if a request or an invitation to join a game comes from a non-registered or uninvited user, then the system or Host is configured to automatically reject the request because the user is not registered or not in the buddy list, as one skilled in the art would have understood.

Response To Applicant's Arguments

First of all, Applicant argues that Kirmse does not disclose “enabling the Host to accept or reject a request to join the first game from an uninvited guest” as featured in claims 1, 5 and 12. However, the Examiner respectfully and completely disagrees with the Applicant’s findings. In general, and as further acknowledged by the Applicant, Kirmse discloses a system wherein a Host (game starter or first user) is enabled to send to or accept from invited (registered) users or members in the (game starter) buddy list an invitation to join a game in progress. Needless to say, here, if a request or an invitation to join a game comes from a non-registered or uninvited user, then the system or Host is configured to automatically reject the request because the user is not registered or not in the buddy list, as one skilled in the art would have understood.

Therefore, the Applicant’s request for allowance or withdrawal of the last Office Action has been fully considered and respectfully denied in view of the foregoing response since the Applicant’s arguments as herein presented are not plausible and thus, the last **Office Action is herein being maintained.**

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2002/0006826 A1 to Hansted discloses a system wherein a plurality of persons play a game, the system comprising a central data processing unit, a portable communication unit for each person, each communication unit being adapted to receive game information and transmit this information to the central data processing unit, the central data processing unit being adapted

to transmit information received from one communication unit to at least one other of the communication units, the central data processing unit being adapted to receive information from each of a number of persons relating to a desired starting point in time for a game, and compare the received information and inform respective persons if a correspondence is found.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication from the Examiner should be directed to Jean D. Janvier, whose telephone number is (571) 272-6719. The aforementioned can normally be reached Monday-Thursday from 10:00AM to 6:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Eric W. Stamber, can be reached at (571) 272- 6724.

Non-Official- 571-273-6719.

Official Draft : 571-273-8300

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08/05/06

Jean D. Janvier

JDJ

Patent Examiner

JEAN D JANVIER
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "JDJ". Above the signature, the name "JEAN D JANVIER" is printed in a bold, sans-serif font, with "PRIMARY EXAMINER" printed directly beneath it in a smaller, all-caps font.